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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,001	02/20/2002	James Allen	PCT/IB00/00205	7859

7590 08/04/2004

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28th Floor  
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Columbus, OH 43215-6194

EXAMINER
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MACHUGA, JOSEPH S

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/936,001	<b>Applicant(s)</b> ALLEN ET AL.	
	<b>Examiner</b> Joseph S. Machuga	<b>Art Unit</b> 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-14 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### ***Response to Arguments***

Applicant's arguments filed April 14, 2004 have been fully considered but they are not persuasive. Vandehey #4919144 discloses a defibrillator having a processor. Also disclosed as seen on the RIGHT hand portion of Figure 6 is the claimed first threshold 93, second threshold 91, a gradient 95 that remains within limits 87,89. The system also detects the next signal peak. So all the claimed features are provided for except the output signal applied in real time and this feature is clearly taught by KenKnight et al #6112117. Accordingly, applicant's arguments that these features are not taught by the prior art are not deemed persuasive.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 12, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vandehey #4919144 in view of KenKnight et al #6112117.

Vandehey discloses an external defibrillator. The device includes a plurality of electrodes and data processing means. The data processing means records the ECG signal from the patient. As illustrated in Figures 6 and 8 the processor then determines and marks the region of the signal that passes over a first threshold and a second threshold that's of opposite polarity. The processor also records the next signal peak above the threshold. The data gathered is use to decide treatment options.

KenKnight et al teaches applying a defibrillating pulse to a predetermined up slope portion of the ECG cycle after the decision in real time is made.

Given Kenknight et al's teaching it would have been obvious to one of ordinary skill in the art to take the output of Vandehey's device and apply a defibrillating pulse in real time to the up slope portion of the ECG cycle.

Regarding claims 2 and 3 since the mere reversal of the electrodes on the patients would provide for the reversal of polarity of the signal the particulars of those two claims are considered provided for by this reference.

3. Claims 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vandehey #4919144 in view of KenKnight et al #6112117 as applied to claims 1-5 above in further view of Cameron et al #5607454.

Cameron et al discloses an external defibrillator that applies a truncated exponential biphasic voltage source to resuscitate the patient. This waveform is generally accepted

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in the art to produce greater success and induce fewer traumas to the patient than that of the traditional mono-phasic pulses.

Given Cameron et al's teaching it would have been obvious to one of ordinary skill in the art to use a truncated exponential biphasic voltage source in the device of the proposed combination to resuscitate the patient given that it is well accepted in the art that this waveform has greater success and induces less trauma on the patient than a traditional mono-phasic pulse.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

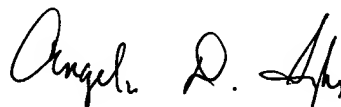
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Machuga whose telephone number is 703-305-6184. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D Sykes can be reached on 703-308-5181. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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ANGELA D. SYKES  
SUPERVISORY PATENT EXAMINER  
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